

**Remarks**

The Office Action dated May 29, 2008 has been carefully considered. Claims 22, 24-27, 29- 37, 39-47, 50, 52-56, 58-61, and 69 have been amended. Claims 23, 28, 48-49, and 62-68 have been canceled. Reconsideration of the current claims is respectfully requested.

***Claim Rejections – 35 U.S.C. § 112 1<sup>st</sup> Paragraph***

In Paragraph 6 of the Office Action, claims 30, 33 and 51 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

For Claim 30, the extraction Test is described in the specification beginning on page 37.

For Claim 33, the method to determine particle size is set forth on page 5, lines 27-30; centrifuge retention capacity is set forth on page 17, lines 26-28; absorption against pressure is set forth on page 18, lines 1-3; water soluble content is set forth on page 18, lines 4-7; and residual moisture is set forth on page 18, lines 8-11. Withdrawal of this rejection is respectfully requested.

***Claim Rejections – 35 U.S.C. § 112 2<sup>nd</sup> Paragraph***

In Paragraph 8 of the Office Action, claims 22-30, 45, 35, 38, 40, 22, 44, 50, 51, 56 and 69 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 22-33, 45, 35, 38, 40, 22, 44, 50, 51, and 69 have been amended to moot this rejection. Withdrawal of this rejection is requested.

In Paragraph 9 of the Office Action, claims 28 and 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 28 has been canceled and claim 34 has been amended to moot this rejection. Withdrawal of this rejection is respectfully requested.

In Paragraph 10 of the Office Action, claims 30, 33 and 51 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As set forth above these tests have been set forth in the specification. Withdrawal of this rejection is respectfully requested.

In Paragraph 11 of the Office Action, claims 46, 47 and 60-62 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 46, 47, 60, and 61 have been amended and claim 62 has been canceled to moot this rejection. Withdrawal of this rejection is requested.

In Paragraph 12 of the Office Action, claim 69 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 69 has been amended to moot this rejection. Withdrawal of this rejection is requested.

***Claim Rejections – 35 U.S.C. § 101***

In Paragraph 14 of the Office Action, claim 69 is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101.

Claim 69 has been amended to moot this rejection. Withdrawal of this rejection is requested.

***Claim Rejections – 35 U.S.C. § 102***

In Paragraph 16 of the Office Action, claims 22-25 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Ueda et al. (PGPub 2003/0004479).

Ueda et al. discloses compositions comprising a plant powder and a water-absorbent resin. The plant powder serves as an odor control agent. Ueda et al. does not disclose the combination of water-absorbing polymer particles and a care substance, a wound-treating substance, or a care substance and a wound-treating substance as required by amended claim 22.

Furthermore, according to the Examples and claim 12 of Ueda et al., the compositions disclosed therein are obtained by adding the plant powder to a water-absorbent resin that exhibits an absorption capacity of 25 to 60g/g, a suction power of not less than 9g/g under load, and an

absorption rate of not more than 60 seconds. Thus according to Ueda et al. it is preferred to add a plant powder to a superabsorbent polymer powder.

However, preparing a composition in such a way results in a mixture of 2 powders, but not to water-absorbing particles in which an active substance is homogeneously distributed over the absorber mixture as required by amended claim 22. Such a homogeneous distribution of an active substance is obtained if the active substance is added to the monomer solution prior to or during the polymerization reaction or is incorporated into the polymer when in the gel state (before the drying step).

Each and every element of claim 22 (and those claims dependent on claim 22) is not disclosed in Ueda et al. Withdrawal of this rejection is respectfully requested.

***Claim Rejections – 35 U.S.C. § 103***

In Paragraph 20 of the Office Action, claims 22, 45 and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ueda et al.

For the points set forth above Ueda et al. fails to disclose each and every element of the present invention as set forth in the current claims.

In Paragraph 21 of the Office Action, claims 22, 45 and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ueda et al. in view of Chmelir et al. (US 6,552,141).

Chmelir et al. is completely silent about any combination of the water-absorbing polymers disclosed therein with any care substances or wound-treating substances. Chmelir et

al. is also silent about adding any active substances to the monomer solution or to the polymer gel which would lead to a homogeneous distribution of the active substance over the absorber matrix.

It is therefore not evident why a combination of Ueda et al. and Chmelir et al. would lead to an active substance-doped water absorbing polymer particle defined in amended claim 1, to a hygiene article defined in amended claim 45, or to a wound treating article defined in amended claim 69.

In Paragraph 22 of the Office Action, claims 22-34, 37, 39, 40, 43-47, 50-52, 55, 60-62 and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Champ et al. (DE 10257002) in view of Ueda et al. (PGPub 2003/0004479).

Champ et al. discloses to treat the surface of foamed hydrogels, after having been dried, with a dispersion of a skin care agent. Such a treatment, however does not lead to a homogeneous distribution of the skin care agent in the foamed hydrogel. The skin care agent only penetrates the surface region of the dried composition.

Therefore, even if the person of ordinary skilled in the art would have combined the teaching of Ueda et al. with that of Champ et al., he would have brought into contact the polymer particles of Ueda et al. with a dispersion of a skin care agent. When doing this, he would have obtained particles in which the skin care agent is only distributed on the surface of the particles, but not homogeneously distributed therein, as required by amended claim 22.

In Paragraph 23 of the Office Action, claims 31, 35, 37-42, 50, 53, and 55-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Champ et al. and Ueda et al. as applied to claims 22-34, 37, 39, 40, 43-47, 50-52, 55, 60-62 and 69 above, and further in view of Morman et al. (US 5,883,028).

Amended claim 31 is directed to a water-absorbing composition comprising a particulate water-absorbing polymer containing an active substance and a polycondensate matrix based on at least one polycondensate monomer, wherein the water-absorbing composition is obtainable by a process wherein particulate water-absorbing polymer that comprises the active substance is brought into contact with the polycondensate monomer before the completion of the polycondensate formation. When performing such a process, the particulate water-absorbing polymer containing the active substance is completely surrounded by the polycondensate matrix (the particulate water-absorbing polymer containing the active substance is embedded in the polycondensate matrix).

Such a process, however, is disclosed in none of the references cited by the Examiner. In Morman et al. it may be disclosed that water-absorbing polymer particles can be brought into contact with polyurethanes being a part of a layer in a diaper, however, in this reference the particulate water-absorbing polymer is brought into contact with the polyurethane at a point of time at which the polyurethane is already formed. In this case, the polymer particles and the polyurethane layer are only partially in contact with each other. The particles, however, are not completely surrounded by the polyurethane as it would have been brought into contact with the polycondensate monomer before the polycondensate polymer is formed.

Therefore, the combination of the references Ueda et al., Champ et al., and Morman et al. fail to disclose the subject matter of amended claim 31, or to make it obvious.

In Paragraph 24 of the Office Action, claims 31, 36, 50 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Champ et al. and Ueda et al. as applied to claims 22-34, 37, 39, 40, 43-47, 50-52, 55, 60-62 and 69 above, and further in view of Kenndoff et al. (US 5,844,013).

Kenndoff et al. discloses a process for the production of polyurethane foams, characterized in that a covalently crosslinked polyurethane as a matrix, one or more polyhydroxyl compounds which are bound in the matrix by secondary valence forces, and fillers, and/or additives, a water-absorbing material and a non-aqueous foaming agent are combined and mixed together and foamed (see claim 11). Kenndoff et al. discloses that the polyurethane gel foams may serve as a matrix for active substances (see col. 1, lines 33-37). Thus, when studying the disclosure of Kenndoff et al., a person skilled in the art would have incorporated any active substance in the polyurethane gel, but certainly not in the particulate water-absorbing polymer, as required by claim 31 (“...wherein at least the particulate water-absorbing polymer comprises the active substance”). Therefore, if the person skilled in the art would have combined the teaching of Ueda et al. and Champ et al. with that of Kenndoff et al., he would have arrived at a polyurethane gel matrix comprising a particulate water-absorbing polymer, wherein an active substance is contained in the polyurethane matrix, but not in the particulate water-absorbing polymer.

*Conclusion*

In light of the amendments and remarks presented herein, Applicants submit that the present application is in condition for allowance, and such action is respectfully requested. If, however, any issues remain unresolved, the Examiner is invited to telephone Applicant's counsel at the number provided below.

Respectfully submitted,

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